

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Protecting the Privacy of Customers)	WS Docket No. 16-106
Broadband and Other Telecommunications)	
Services)	

**REPLY COMMENTS OF WEST TELECOM SERVICES, LLC AND WEST SAFETY
COMMUNICATIONS INC.**

West Telecom Services, LLC (“West Telecom”) (f/k/a HyperCube Telecom, LLC)¹ and West Safety Communications Inc. (“West Safety”) (f/k/a Intrado Communications Inc.)² (collectively, the “West Commenters”³) respectfully submit these reply comments in response to the Commission’s Notice of Proposed Rulemaking in the above-referenced proceeding.⁴

The West Commenters understand and support the efforts of the Commission to protect the privacy of consumers. However, the West Commenters also share many of the concerns raised in the initial comments regarding the Commission’s proposal to expand the existing voice rules for customer proprietary network information (CPNI) or harmonize them with the proposed broadband internet access service (BIAS) privacy rules. The proposed rules, if adopted, will lead to customer confusion from excessive breach notifications, disruptions to the policies and

¹ West Telecom provides wholesale local and national tandem switching and transport services, termination services, toll-free origination services, and Direct Inbound Dial services to telecommunications and information service providers, including wireless carriers, wireline competitive local exchange carriers (CLECs) and interexchange carriers (IXCs), cable telephony providers and Voice over Internet Protocol (VoIP) providers.

² West Safety provides emergency communications services and infrastructure systems to public safety organizations and service providers, including wireless carriers, wireline CLECs, cable telephony providers and VoIP providers.

³ West Telecom and West Safety are indirect, wholly-owned subsidiaries of West Corporation, a publicly traded (Nasdaq: WSTC) Delaware corporation that provides a broad range of communications and network infrastructure solutions through its subsidiaries to business customers.

⁴ *Protecting the Privacy of Customers of Broadband and Other Telecommunications Services*, Notice of Proposed Rulemaking, WC Docket No. 16-106 (rel. Apr. 1, 2016) (NPRM).

practices of voice providers that already comply with the CPNI rules, an impractical customer approval framework and an overly expansive category of protected information irrespective of its sensitivity and the burdens imposed on providers.⁵ As several commenters aptly recognize, these inefficiencies would be especially problematic and unnecessarily burdensome for those providers serving business customers.⁶ The West Commenters therefore support the recommendation raised in the initial comments that any harmonization of the voice and proposed BIAS privacy rules should (i) exempt the provision of services to wholesale and enterprise customers so that providers will have the flexibility to negotiate privacy and security terms with their sophisticated customer base within the framework of Section 222 of the Communications Act or (ii) in the alternative, include modifications to the existing voice rules to account for the fundamental differences between mass market and business customers by declining to regulate customer proprietary information (customer PI), inadvertent CPNI breaches, prospective customers and the unauthorized sharing of CPNI with affiliates and agents in the wholesale and enterprise voice context.⁷

In light of the volume of initial comments addressing the above points, the West Commenters focus these reply comments on the Commission's request for comment on the statutory exceptions to CPNI disclosure without customer consent in Section 222(d) of the Communications Act.⁸ Specifically, the West Commenters urge the Commission to confirm and clarify the fraud exception in Section 222(d)(2) and to adopt the amendments to new Rule 64.7002(a)(5) proposed by the Texas 9-1-1 Entities.

⁵ See, e.g., AT&T Comments at 72-87; INCOMPAS Comments at 7-18; CenturyLink Comments at 18-44; T-Mobile Comments at 25-34, 39-42, 50-54; XO Communications Comments at 8-14.

⁶ See INCOMPAS Comments at 4-7; Level 3 Comments at 2-14; XO Communications Comments at 2-5, 7-8.

⁷ *Id.*

⁸ NPRM ¶¶ 115-18.

I. The Commission Should Clarify That Section 222(d)(2) Permits Service Providers to Share Information With One Another When Investigating Fraudulent Traffic.

Section 222(d)(2) of the Communications Act permits telecommunications carriers to use, disclose and permit access to CPNI when the purpose of doing so is to protect the rights or property of the carrier or to protect consumers and other carriers from fraudulent, abusive or unlawful use of the provisioned telecommunications services.⁹ Recognizing the importance and breadth of this statutory exception, the Commission proposes to interpret Section 222(d)(2) to permit (i) telecommunications carriers to use or disclose calling party phone numbers, including phone numbers being spoofed by callers, without additional customer consent when doing so will help protect customers from abusive, fraudulent or unlawful activities, including robocalls and (ii) BIAS providers to use or disclose CPNI whenever reasonably necessary to protect themselves or others from cyber security threats or vulnerabilities.¹⁰ The West Commenters agree with and support the Commission's interpretation of Section 222(d)(2) and submit that the plain language of the statute and customer expectations compel this result.

Like other telecommunications carriers that provide wholesale transport and switching services, West Telecom sometimes finds itself in the middle of unwanted robocall traffic that leads to intercarrier investigations. To be effective, such robocall investigations often necessitate that West Telecom and other carriers in the call flow quickly gather and share relevant information with each other in order to collectively identify and eliminate sources of abusive or fraudulent traffic. Obtaining this information, however, is frequently hindered and sometimes not possible for the investigating carriers without a subpoena or court order or the ad hoc involvement of Commission or law enforcement personnel because some providers in the call

⁹ 47 U.S.C. § 222(d)(4).

¹⁰ NPRM ¶¶ 117-118.

flow are wary that they could inadvertently breach their CPNI obligations. A clarification of the type sought by the United States Telecom Association (“USTelecom”) and others would eliminate such obstacles and serve the interests and expectations of consumers who demand that their providers quickly and effectively eradicate unwanted robocalls.¹¹

Because call flows are often processed over multiple provider networks and robocall offenders regularly spoof telephone numbers at origination, West Telecom recommends that the Commission adopt an intercarrier sharing approach for robocall investigations that does not limit the disclosure of CPNI or customer PI without customer consent to any specific categories of information and instead restricts disclosure generally to what is reasonably necessary to investigate the source of the robocall within the network.¹² This flexible standard would provide carriers with the tools necessary to quickly and accurately shut down unwanted robocalls.¹³ Alternatively, the Commission should permit carriers to disclose to each other the contents of the Call Detail Record (CDR)¹⁴ and the upstream provider identification in addition to the calling party phone numbers without additional customer consent when doing so will help protect customers from abusive, fraudulent or unlawful robocalls.

The West Commenters also echo the call of USTelecom for the Commission to not only permit the intercarrier disclosure and use of CPNI to combat abusive robocalls, but also to use

¹¹ USTelecom Comments at 16-18; Comments of Staff of the Bureau of the Consumer Protection of the Federal Trade Commission (“FTC Staff Comments”) at 18.

¹² See FTC Staff Comments at 19 (noting that new technologies allowing callers to spoof caller ID information results in BIAS providers and telecommunications carriers knowing little about the origin of the call, which means that these providers should be allowed to share information that enables tracing a call to its origin in order to enhance efforts to combat abusive, fraudulent, or unlawful calls).

¹³ *Id.* at 18 (recommending the Commission permit “BIAS providers and telecommunications carriers to share not only calling party phone numbers, but also any other information these entities need to locate or identify a particular abusive, fraudulent, or unlawful robocall or live call that traversed their networks”).

¹⁴ CDRs contain various metadata attributes of a call such as time, duration, completion status, source number and destination number but they do not include the substance of the call.

this rulemaking as an opportunity to clarify that the unambiguous language of Section 222(d)(2) permits carriers to share CPNI with one another for the purpose of investigating any “fraudulent, abusive, or unlawful use” of provisioned telecommunications services or to “protect the rights or property of the carrier.”¹⁵ In fact, the Commission should encourage such sharing because timely cooperation among providers is essential to tracing fraudulent network activity to its point of origin. Such encouragement would foster an environment of willing contributors to fraud investigations rather than reluctant and apprehensive providers who put up unnecessary road blocks to statutorily protected activity. It would also advance the purpose of Section 222(d)(2) to protect carriers and consumers from harmful activity by enabling efficient and accurate elimination of the source and by assisting law enforcement in their effort to trace calls.

Encouragement and support from the Commission for carriers to share CPNI in fraud investigations is especially needed at this time because, as the Staff of the Bureau of the Consumer Protection of the Federal Trade Commission notes, consumers are being harassed by a “deluge of unwanted calls,” consumer demand for call-block or call-filtering technologies is high, and the rate of Do-Not-Call complaints is well into the millions per year.¹⁶ Stopping this fraudulent and harmful behavior will require action by the industry and the Commission working cooperatively to advance a regulatory scheme that both prohibits fraudulent network traffic and encourages carrier sharing of consumer information for the purpose of identifying the point of origin and eliminating fraudulent calls at their sources.

¹⁵ USTelecom Comments at 16-18; *see* FTC Staff Comments at 18 (recommending the Commission expand its Section 222(d)(2) proposal to allow carriers to share the “calling party phone numbers not only for robocalls, but for all calls that a consumer identifies as being abusive, fraudulent, or unlawful”).

¹⁶ FTC Staff Comments at 18.

Finally, provided the Commission adopts the proposed BIAS privacy rules, the West Commenters voice their support for the Commission's proposal to extend the exception in Section 222(d)(2) to permit BIAS providers to use or disclose CPNI whenever reasonably necessary to protect themselves or others from cyber security threats or vulnerability. The initial comments highlight the need for broad information sharing without customer consent to facilitate and improve cyber threat detection and response.¹⁷ BIAS providers require flexibility to move quickly and accurately through the challenging and evolving environment of cyber security. Broad information sharing allows providers to secure their networks, eliminate threats and improve the overall experience of the Internet. Thus, the Commission should make clear that Section 222(d)(2) and its rules do not limit BIAS providers' ability to share information for cyber security purposes.

II. The Commission Should Adopt the Amendments to New Rule 64.7002(a)(5) Proposed by the Texas 9-1-1 Entities.

The West Commenters were pleased to see the recommendation by the Texas 9-1-1 Entities¹⁸ to slightly reword subsection (a)(5) of the proposed new Rule 64.7002. With the transition to NG911, it is important that the Commission continue to support the exception in Section 222(d)(4)(A) of the Communications Act and not restrict the flow of consumer information needed to provide highly effective 9-1-1 service. The edits recommended by the Texas 9-1-1 Entities will more closely align subsection (a)(5) to the text of Sections 222(d)(4)(A) and 615a of the Act.¹⁹ The West Commenters also agree with the Texas 9-1-1 Entities that the proposed modifications to subsection (a)(5) will more clearly accomplish the Commission's

¹⁷ CTIA Comments at 136-142; Nominum, Inc. Comments at 3-6; Cloudmark, Inc. Comments at 3-4; CTIA Comments at Texas 9-1-1 Entities Comments at 2.

¹⁸ The Texas 9-1-1 Entities include the Texas 9-1-1 Alliance, the Texas Commission on State Emergency Communications, and the Municipal Emergency Communication Districts Association.

¹⁹ Texas 9-1-1 Entities Comments at 2-3.

intent and create parity with regard to consumer information used to facilitate emergency response. In addition, with regard to the Commission's specific question in paragraph 116 of the NPRM, the West Commenters support the assertion by the Texas 9-1-1 Entities that adding the text "consistent with applicable industry standards" to new Rule 64.7002 will avoid the need to consider and review the specific facts and context associated with particular information required and used for emergency response services and whether such information should be "automated."

CONCLUSION

The West Commenters appreciate the opportunity to provide these reply comments and respectfully request that the Commission take action consistent with the matters raised herein.

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Respectfully submitted,

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